

EXECUTIVE CHAMBERS

HONOLULU

June 9, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2401

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2401, entitled "A Bill for an Act Relating to State Finances."

The purpose of this bill is to suspend claims for the High Technology Business Investment Tax Credit and the Technology Infrastructure Tax Credit for tax years 2010, 2011 and 2012.

This measure is objectionable because it negatively impacts Hawaii's economy and makes it more difficult to sustain our current efforts to recover. It may not achieve its purpose of generating revenues to cover the state budget shortfall, and the bill may impact the state's future credit worthiness ratings.

First, this bill negatively impacts Hawaii's economy and business climate by increasing the uncertainty of doing business in the State. In 2009, Hawaii was ranked forty-second in the nation in an assessment of its state business climate by the Small Business and Entrepreneurship Council. This measure would continue to perpetuate that perception by making Hawaii's tax law unfriendly to businesses and investors.

Investors and businesses make decisions to hire, expand or start up a company based on assessments of the risks and rewards involved. One of the factors examined is the government's tax and regulatory structure. When government policies change with little notice or rationale, businesses become wary because they are no longer able to assess the future risks of putting money into Hawaii. The fact that this bill

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would change the tax credit rules retroactively, implies people who put capital in Hawaii can no longer trust the State Government to keep its word. This is bad economic policy and bad public policy.

Second, this bill may not actually generate revenue as stated in the committee report for the H.D. 1 version of this measure. Rather the measure would delay a total of \$168,400,000 in state financial obligations to fiscal years 2013-2014 and 2014-2015. Because a number of investors and businesses have already stated their intent to challenge this measure in court if it becomes law, their additional tax payments under this measure will likely be transferred to the Litigated Claims Fund until all matters are resolved. As such, it is highly uncertain whether the revenues from this measure can be counted toward the financial plan, since there is a possibility that revenues will not be deposited into the general fund as expected in fiscal years 2010-2011, 2011-2012, and 2012-2013, when the budget shortfall is most severe.

Finally, while Moody's maintained Hawaii's Aa2 rating on approximately \$4,700,000,000 in outstanding general obligation bonds this past February, the agency also revised the outlook on those bonds from stable to negative. One of the reasons for that revision is "Hawaii's narrowed financial operations as underscored by significantly lower reserve levels and payment deferrals," as well as "out-year structural gaps due to one-time solutions already incorporated in the enacted budget." This bill adds \$168 million to that future structural gap by delaying our tax credit obligations. As such it could negatively impact the assessment of Hawaii's credit worthiness by adding to the payment deferrals of the State.

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For the foregoing reasons, I am returning Senate Bill
No. 2401 without my approval.

Respectfully,

A handwritten signature in dark ink, appearing to read 'James R. Aiona, Jr.', written in a cursive style.

JAMES R. AIONA, JR.
Acting Governor of Hawaii